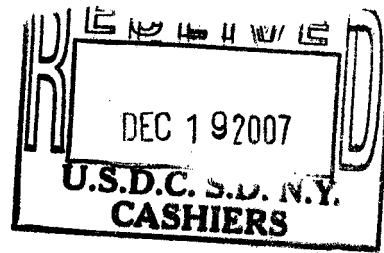


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7 Attorneys for Plaintiff
CORBIS CORPORATION

JUDGE CROTTY

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF NEW YORK

07 CV 11391

12 CORBIS CORPORATION, a Nevada
corporation,

Case No.

13 Plaintiff,

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT AND VIOLATION OF
THE DIGITAL MILLENNIUM
COPYRIGHT ACT**

14 v.

15 COMMVERGE MARKETING LLC, a
Connecticut corporation,

DEMAND FOR JURY TRIAL

17 Defendant.

18
19 Plaintiff Corbis Corporation ("Corbis"), through its attorneys, alleges as its complaint
20 against Defendant commVerge Marketing LLC ("commVerge") as follows:

21 **INTRODUCTION**

22 1. Corbis is a leading visual-solutions provider, licensing images that enable
23 publishers, advertising and design agencies, filmmakers, and other creative professionals to tell
24 their stories with impact extending beyond words. Recently, at least five images from the Corbis
25 collections were misappropriated, and used in at least seven instances, without license or
26 permission, or exceeding any license or permission—contrary to the rights of Corbis and of the
27 photographers that Corbis represents. Such images were reproduced, displayed, distributed, and
28 otherwise misused—in pursuit of profit—on Defendant's website without payment of

PLAINTIFF CORBIS' COMPLAINT FOR
COPYRIGHT INFRINGEMENT AND
VIOLATION OF THE DMCA

1 compensation to Corbis for their use. Because Defendant commVerge has failed satisfactorily to
2 respond to Corbis' good-faith demand, attempts to informally resolve this dispute have proven
3 futile, and Corbis files this action for copyright infringement under 17 U.S.C. § 501, *et seq.*

4 **JURISDICTION AND VENUE**

5 2. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.
6 §§ 1331 (federal question) and 1338 (copyright), as this action involves claims brought under
7 federal law and the United States Copyright Act, 17 U.S.C. §§ 101, *et seq.*

8 3. This Court has personal jurisdiction over Defendant under the valid and binding
9 forum selection clause in Corbis' Site Usage Agreement and the Corbis Content License
10 Agreement, under which Defendant and/or its agent(s) agreed to accept the exclusive jurisdiction
11 of this Court as quoted below. Additionally, Defendant displays its interactive webpage
12 throughout this district through the web address www.cverge.com and, on information and belief
13 it does business in the State of New York and in this District, and advertises and sells its products
14 and services in this District.

15 4. Venue is proper in this District pursuant to 28 U.S.C. § 1400(a) under the valid
16 and binding forum selection clause in Corbis' Site Usage Agreement and the Corbis Content
17 License Agreement, under which Defendant and/or its agent(s) agreed to accept the exclusive
18 jurisdiction of this Court as quoted below. Additionally, on information and belief, Defendant is
19 doing continuous business in this District, Defendant or its agent may be found in this District,
20 and a substantial part of the events giving rise to the claims described herein, including acts of
21 infringement, occurred in this District.

22 **PARTIES**

23 5. Corbis is a Nevada corporation with a principal place of business at 902
24 Broadway, New York, New York.

25 6. Upon information and belief, commVerge is a Connecticut corporation with a
26 principal place of business at 167 Cherry St., Suite 406, Milford, Connecticut.

27 **BACKGROUND**

28 7. Corbis is in the business of licensing photographs and fine art images on behalf of
PLAINTIFF CORBIS' COMPLAINT FOR
COPYRIGHT INFRINGEMENT AND
VIOLATION OF THE DMCA

1 itself and the photographers and other licensors it represents. Corbis offers a preeminent
2 collection of more than 100 million creative, entertainment and historic images and serves more
3 than 50 countries worldwide. Generally, the images in Corbis' collections were taken by
4 professional photographers who earn most or all of their livelihoods from the licensing fees
5 Corbis is able to obtain for their images. Corbis' collections highlight well-known photographers
6 and some of the most recognized images in contemporary society, including cutting-edge
7 contemporary creative imagery, and images from cultural institutions, museums and
8 photojournalists. Its customers include thousands of leading print, interactive and broadcast
9 advertising agencies, direct marketing agencies, corporations, small and medium sized
10 businesses, publishers and media companies.

11 8. The images in Corbis' collection are the subject of copyright protection under the
12 laws of the United States. Corbis has protected the images in its collection and subject of this
13 action by systematically registering the copyrights thereto.

14 9. Corbis owns and operates a website located at the Internet address
15 www.corbis.com ("Corbis Website"). At the Corbis Website, users are able to search hundreds of
16 thousands of images from Corbis' collection and then pay to license the images for specific uses.

17 10. Access to the Corbis Website is governed by Corbis' Site Usage Agreement
18 available to all visitors on the Corbis Website. The Site Usage Agreement states in relevant part,
19 "[a]ny dispute regarding this Agreement shall be governed by the laws of the State of New York
20 and applicable U.S. Federal law, including Title 17 of the U.S. Code, as amended. The parties
21 agree to accept the exclusive jurisdiction of the state and federal courts located in New York,
22 USA."

23 11. Use of Corbis' images is governed by the Corbis Content Licensing Agreement
24 available to all visitors on the Corbis Website site. Paragraph 21 of the Corbis Content License
25 Agreement expressly provides that "Any dispute regarding this Agreement shall be governed by
26 the laws of the State of New York, and by Titles 15, 17 and 35 of the U.S.C., as amended, and the
27 parties agree to accept the exclusive jurisdiction of the state and federal courts located in New
28 York, New York, regardless of conflicts of laws."

12. Upon information and belief, commVerge owns, operates, and maintains a website located at www.cverge.com ("commVerge Website"). The commVerge Website, which is interactive and transmitted nationwide via the Internet, advertises, sells, and otherwise offers commVerge' products and services.

13. Upon information and belief, in or around November 2005 and on various other occasions, Defendant or its agents copied and/or uploaded the Corbis images onto the commVerge Website, without authorization, and without paying for the required commercial license fees.

14. Defendant reproduced, displayed and distributed to the public the same Corbis images on the commVerge Website as part of that site's marketing and advertising material in an effort to attract business from those visiting the site.

15. Attached as Exhibit A is a representative, non-exhaustive sample of true and correct copies of presently known Corbis images registered with the Copyright Office ("Corbis Images"), with screen shots taken from the commVerge Website depicting some of Defendant's unauthorized uses of the Corbis Images.

16. In or around May 8, 2007, Corbis provided written notice advising commVerge of its unauthorized use of the Corbis Images.

17. In response to such notice, commVerge failed to produce any evidence of valid licenses for the unauthorized uses on the commVerge Website. Subsequent communications further failed to resolve the matter or demonstrate any authorization for commVerge's use.

18. Attached as Exhibit B is a chart identifying the United States Copyright Office registration certificate numbers and registration dates for the Corbis Images displayed in Exhibit A, evidencing that Corbis owns or controls the registered copyrights to these images that were copied and displayed on the commVerge Website.

FIRST CAUSE OF ACTION
COPYRIGHT INFRINGEMENT
[17 U.S.C. § 501]

19. Corbis repeats and realleges the allegations of paragraphs 1 through 18 as if fully

1 set forth herein.

2 20. Corbis holds valid copyright registrations to the Corbis Images that are the subject
3 of this action and that are evidenced by the copyright registration certificates referenced by
4 Exhibit B.

5 21. Defendant reproduced, distributed, displayed, and created derivative works of
6 those Corbis Images for commercial purposes without Corbis' authorization.

7 22. The actions and conduct of Defendant as described above, directly, contributorily,
8 and/or vicariously infringe the exclusive rights of Corbis granted by Section 106 of the Copyright
9 Act, 17 U.S.C. § 106, to display, reproduce, distribute and create derivative works based on
10 Corbis' registered copyrighted works.

11 23. Such actions and conduct by Defendant constitute copyright infringement under
12 Section 501 of the Copyright Act, 17 U.S.C. § 501.

13 24. As a result of the copyright infringement described above, Corbis is entitled to
14 relief against Defendant including, but not limited to, injunctive relief, actual damages and
15 disgorgement of Defendant's profits, or statutory damages, statutory costs and attorneys' fees,
16 and prejudgment interest.

17 **SECOND CLAIM FOR RELIEF**
18 **REMOVAL OR ALTERATION OF COPYRIGHT MANAGEMENT INFORMATION**
19 **[17 U.S.C. § 1202]**

20 25. Corbis repeats and realleges the allegations of Paragraphs 1 through 24 as if fully
21 set forth herein.

22 26. All of the Corbis Images that are the subject of this lawsuit were displayed on the
23 Corbis Website with corresponding copyright management information ("CMI") indicating
24 Corbis' control of rights in such images.

25 27. Upon information and belief, when Defendant or its agents duplicated and
26 displayed the subject images on the commVerge Website, it intentionally removed the CMI from
27 each of the original Corbis Images used by Defendant.

28 28. Upon information and belief, when Defendant distributed and publicly displayed

1 the Corbis Images and copies thereof on the commVerge Website, it knew that CMI had been
2 removed or altered without authority of Corbis, the entity that controlled the copyrights.

3 29. Upon information and belief, Defendant knew or had reasonable grounds to know
4 that its conduct specified in the prior two paragraphs would induce, enable, facilitate or conceal
5 Defendant's infringement of copyrights, as described above.

6 30. Defendant's conduct therefore constitutes a violation of the Digital Millennium
7 Copyright Act, 17 U.S.C. § 1202(b).

8 31. As a result of the conduct described above, Corbis is entitled to relief against
9 Defendant, including, without limitation, injunctive relief, actual damages or statutory damages in
10 the amount of up to \$25,000 per violation, statutory costs and attorneys' fees, and prejudgment
11 interest.

12 **RELIEF REQUESTED**

13 WHEREFORE, Corbis prays for relief as follows:

14 1. For orders enjoining Defendant from infringing Corbis' copyrighted images
15 pursuant to Section 502 of the Copyright Act, 17 U.S.C. § 502, and enjoining Defendant from
16 displaying Corbis' copyrighted images pursuant to the DMCA, 17 U.S.C. § 1203(b);

17 2. For an award of Defendant's profits and for damages in such amount as may be
18 found, or for statutory damages of (a) not less than \$750 or more than \$30,000 per image pursuant
19 to 17 U.S.C. § 504(c)(1) or, upon a finding of willful infringement pursuant to 17 U.S.C.
20 § 504(c)(2), up to \$150,000 per image, and (b) not less than \$2,500 or more than \$25,000 per
21 image pursuant to 17 U.S.C. § 1203(c)(3)(B);

22 3. For an award of costs, pursuant to 17 U.S.C., Sections 505 and 1203(b)(4);

23 4. For an award of reasonable attorneys' fees, pursuant to 17 U.S.C., Sections 505
24 and 1203(b)(5);

25 5. For an award of prejudgment interest on the amount of any award to Plaintiff; and
26
27
28

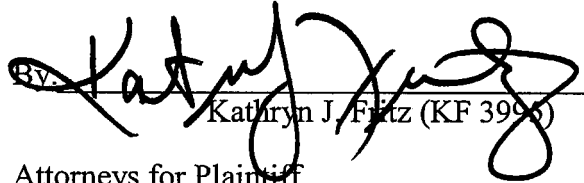
6. For such other and further relief as the Court deems just and equitable.

JURY TRIAL DEMAND

Plaintiff Corbis hereby requests a trial by jury of all issues so triable.

Dated: December 5, 2007

FENWICK & WEST LLP

A handwritten signature in black ink, appearing to read "Kathryn J. Fritz", is written over a horizontal line.

Kathryn J. Fritz (KF 3996)

Attorneys for Plaintiff
CORBIS CORPORATION

23819/00401/LIT/1277020.3

FENWICK & WEST LLP
ATTORNEYS AT LAW
MOUNTAIN VIEW

EXHIBIT A

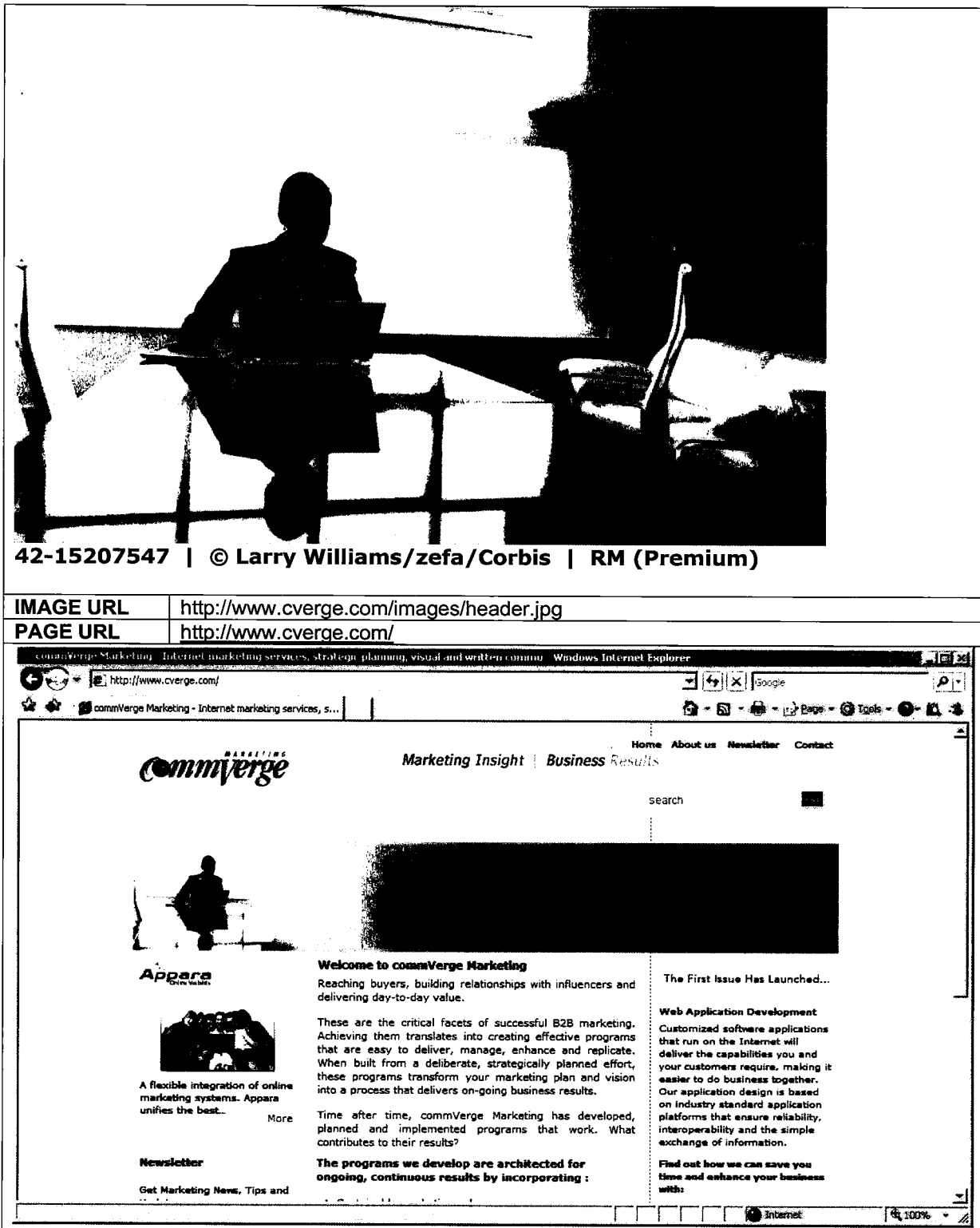


EXHIBIT A



42-15207547 | © Larry Williams/zefa/Corbis | RM (Premium)

IMAGE URL <http://www.cverge.com/images/header.jpg>PAGE URL <http://www.cverge.com/aboutus.html>

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http://www.cverge.com/aboutus.html

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commVerge Marketing Insight Business Results

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About Us

commVerge Marketing concentrates on expanding your company's market visibility. Our consulting and Internet marketing services are delivered to get you to be "top of mind" with your customers, prospects and partners.

Accomplishing this means having a consistent presence and valuable message that is weaved throughout all of your marketing efforts.

Whether you are broadening market reach or sharpening your industry vision, we provide insight on the true business needs that motivate the adoption of your products and services.

Our Services Support Your Core and Special Marketing Needs:

- Internet - Web Marketing B2B
- Email Marketing
- Web Site Development
- Content Development

The First Issue Has Launched...


Web Application Development

Customized software applications that run on the Internet will deliver the capabilities you and your customers require, making it easier to do business together. Our application design is based on industry standard application platforms that ensure reliability, interoperability and the simple exchange of information.

Find out how we can save you time and enhance your business with:

Internet 100%

EXHIBIT A



42-15207547 | © Larry Williams/zefa/Corbis | RM (Premium)

IMAGE URL	http://www.cverge.com/images/header.jpg
PAGE URL	http://www.cverge.com/contactus.html

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<http://www.cverge.com/contactus.html> Google

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Contact Us
We will collaborate with you in the development of a strategy to establish meaningful visibility in the marketplace.

commVerge Marketing
167 Cherry Street
Suite #406
Milford, CT 06460
info@cverge.com
203-874-7868

Tell Us How We Can Improve Your Visibility

Name

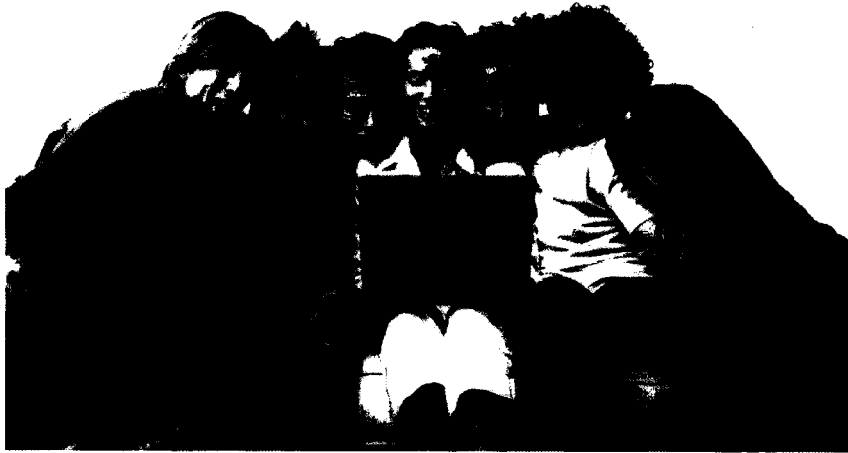
The First Issue Has Launched...

Web Application Development
Customized software applications that run on the Internet will deliver the capabilities you and your customers require, making it easier to do business together. Our application design is based on industry standard application platforms that ensure reliability, interoperability and the simple exchange of information.

Find out how we can save you time and enhance your business with:

Internet 100%

EXHIBIT A



42-15252339 | © Sydney Shaffer/zefa/Corbis | RM (Premium)

IMAGE URL http://www.cverge.com/images/left_image_online.jpg

PAGE URL <http://www.cverge.com/>

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Marketing Insight : Business Results

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Appara
Online Media

A flexible integration of online marketing systems. Appara unifies the best... More

Newsletter
Get Marketing News, Tips and

Welcome to commVerge Marketing
Reaching buyers, building relationships with influencers and delivering day-to-day value.

These are the critical facets of successful B2B marketing. Achieving them translates into creating effective programs that are easy to deliver, manage, enhance and replicate. When built from a deliberate, strategically planned effort, these programs transform your marketing plan and vision into a process that delivers on-going business results.

Time after time, commVerge Marketing has developed, planned and implemented programs that work. What contributes to their results?

The programs we develop are architected for ongoing, continuous results by incorporating :

Web Application Development
Customized software applications that run on the Internet will deliver the capabilities you and your customers require, making it easier to do business together. Our application design is based on industry standard application platforms that ensure reliability, interoperability and the simple exchange of information.

Find out how we can save you time and enhance your business with:

Internet 100%

EXHIBIT A



42-15299747 | © Annie Engel/zefa/Corbis | RM (Premium)

IMAGE URL	http://www.cverge.com/images/image_internet2.jpg
PAGE URL	http://www.cverge.com/internet_marketing.html#APPARAOnlineVisibility

commVerge Marketing - Email Marketing, SEM, Online Marketing, C.T. SEO, Internet Marketing Campa Windows Internet Explorer

http://www.cverge.com/internet_marketing.html#APPARAOnlineVisibility

commVerge Marketing - Email Marketing, SEM, Online ...

Achieves The Right Results for:

- Brand Building
- Lead Generation Programs
- Product Launch & Positioning
- Interest Group Marketing

APPARA® Online Visibility:

Appara unifies the best of web-based marketing and allows you to quickly implement an online marketing plan that will realize rapid business results. It is the next evolution of Internet marketing. A customized blend of SEM, SEO, website optimization and email marketing systems, Appara creates a focal point from all of the online contact points of your potential customers and partners. This blended approach gives you the ability to quickly begin to increase business opportunities leveraging your web site-not drive revenue irrelevant traffic.

We put it all together for you as a unified, flexible process that delivers maximum results from your online presence:

- Internet marketing tools & applications
- Email marketing systems
- Optimized Content development and enhancement
- Cohesive Off-line content creation
- Professional Marketing assessment
- Website and email statistical Monitoring

Powerful and Flexible:

Whether you want to increase the frequency of your email marketing campaigns, implement a SEO program, or need to plan and implement a full web-based marketing plan, Appara is the

APPARA® Online Visibility through Blended Internet Marketing Technology

- SEM
- Internet/eMail Marketing
- SEO
- Search Engine and Internet Friendly Websites
- Website Revision
- Optimized Website Content Development

More

Internet 100%

EXHIBIT A



AX050502 | © Digital Art/CORBIS | RM

IMAGE URL	http://www.cverge.com/images/image_mktg_event.jpg
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PAGE URL	http://www.cverge.com/marketing_services.html
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commVerge Marketing - B2B Marketing Firm, Branding, Internet Marketing, Visual Communications, Windows Internet Explorer

http://www.cverge.com/marketing_services.html

commVerge Marketing - B2B Marketing Firm, Branding,...

- Domestic and International Market Analysis
- Company Analysis
- Market Audit/Acceptance
- Competition Overview
- Business Model/Product Delivery

Implementation:

A plan followed by action. We will assist you to rapidly implement your business or marketing plan by augmenting your existing business development and marketing departments. Complementing your existing resources, our business experience includes the implementation of marketing plans and development of distribution and alliance partnerships.

Event Management:

A polished presence is just the start of commVerge Marketing's event management services. We plan any marketing or sales event to harmonize with your overall strategic direction. This focus is a key element in achieving your event goals. Our collaborative planning and tactical implementation has led to new business for companies participating in trade shows and self-sponsored events throughout the United States, Europe, Asia and South America. Our goal is to make your company's exposure extend beyond on the trade show floor or meeting room.

Generating sound business opportunities from a marketing event begins well in advance of the opening. commVerge Marketing creatively plans your company's participation in any marketing event to complement your overall business strategy. We make the difference between being there and getting business done.

"We make the difference between being there and getting business done."

Internet 100%

EXHIBIT A



CRBR232440 | © Helen King/CORBIS | RM

IMAGE URL

PAGE URL http://www.cverge.com/marketing_services.html

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Marketing Services
Marketing Plans:

We build technology marketing plans that are a map to improved market perception, and that meet business goals. Strategic development and tactical implementation of marketing programs--encompassing all creative and management aspects from start to finish--is just a portion of what we deliver. Our planning approach is anchored to attainable objectives based on budgets, resources and overall business goals.



Impending market or business events may require a renewed or expanded approach to meet with success. We analyze a wide range of marketing opportunities and recommend adoption or modification based on your ROI requirements. We will create a plan to effectively present your new product, message or image in competitive forums. We ensure every detail of presentation and follow-up are well managed.

Web Application Development
Customized software applications that run on the Internet will deliver the capabilities you and your customers require, making it easier to do business together. Our application design is based on industry standard application platforms that ensure reliability, interoperability and the simple exchange of information.

Find out how we can save you time and enhance your business with:

Internet 100%

EXHIBIT B

IMAGE ID	© CERTIFICATE
42-15207547	VA 1-314-144
42-15252339	VA 1-314-174
42-15299747	VA 1-314-174
AX050502	VA 1-217-389
CRBR232440	VA 1-325-075